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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,329	07/11/2001	Cary Lee Bates	ROC920010051US1	8425

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EXAMINER	
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ART UNIT	PAPER NUMBER
2683	

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/903,329	BATES ET AL.	
	Examiner	Art Unit	
	Stephen M. D'Agosta	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-26 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 11 July 2001 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 3-19-04 is in compliance and accordingly, the information disclosure statement is being considered by the examiner.

Drawings

The seven drawings were received on 7-11-01 and were reviewed by the draftsperson. The examiner has no objections to the drawings.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 12-13 and 16 rejected under 35 U.S.C. 102(e) as being anticipated by Hendrey et al. US 6,539,232 (hereafter Hendrey).

As per **claim 1**, Hendrey teaches a method for connecting (eg. notifying, C4, L5-23) a user of a portable communication device (title and abstract) comprising:

Determining a location of a first portable communication device of a first user (C5, L19-28);

Determining a location of a second portable communication device of a second user (C5, L19-28);

Determining whether the location of the second device is within a same region containing the first device (abstract teaches selectively connecting/notifying proximately located units, C2, L39-47, figure 4, #401-403 and figure 7, #701-#707 which initiates a call between caller and potential callee, also see figure 12, #323-#327); and

Connecting/Notifying the first user of a presence of the second user if the location of the second device is within the same region containing the first portable device (abstract and C2, L39-47 teach connecting between two units when within a predetermined distance from each other – hence both first and second units are notified since the connection is set-up).

The examiner notes that Heydrey teaches a "data transfer" between first/second units that can include voice, data, email, voicemail, SMS, prerecorded messages, etc. (C4, L5-23) which reads on a notification and/or connection (as stated above).

As per **claim 2**, Hendrey teaches claim 1 wherein the first and second users are members of a group (figure 1 shows an acquaintance server #106 and a matchmaker service and database server #107 which the users are a member of and figure 2 shows a group list with user phone numbers and distances to other users shown, #220, #221-222. Also see figure 6 which shows the matchmaker server/database, #107 and C5, L63 to C6, L5).

As per **claim 3**, Hendrey teaches claim 1 wherein at least one of the first device and second device comprise a wireless device (figure 1 show wireless devices #101a-101c).

As per **claim 4**, Hendrey teaches claim 3 wherein the device comprises one of a mobile phone, a PDA and a two-way pager (C4, L32-37).

As per **claim 5**, Hendrey teaches wherein the first and second devices comprise a laptop computer (C4, L32-37).

As per **claim 6**, Hendrey teaches wherein notification comprises automatically sending a signal to the first portable device (C2, L38-47 teaches a connection is sent automatically when the predetermined distance between two users is within a preferred range. Note that C2, L48-59 teaches the computer determining and setting up the automatic connection/signal).

As per **claim 7**, Hendrey teaches claim 1 wherein the determining the location of the first device comprises obtaining the location of the first device via GPS contained in the first portable device (C1, L48-51 teaches use of GPS – hence the phone inherently must contain a GPS transceiver in order for GPS to be supported).

As per **claim 12**, Hendrey teaches claim 1 comprising:

Determining a common meeting point for the first and second users:

Notifying the first user of the common meeting point on the first portable device;

Notifying the second user of the common meeting point on the second device (C7, L15-26 teaches inviting all nearby parties to lunch at a restaurant which reads on a common meeting point, also see C15, L40 to C16, L9 and C22, L26-48. This same passage also states that multiple users are contacted which reads on first/second devices are notified).

As per **claim 13**, Hendrey teaches claim 1 wherein the determining the location of the second device and the notifying is repeated for all other members of a group containing the first user (C7, L4-15, specifically L10-11 which teaches repeating).

As per **claim 16**, Hendrey teaches claim 1 wherein the second device is within the same area as the first device if the location of the second device is less than a threshold distance from the location of the first device (C5, L19-34 and C6, L20-26).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8-9 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey as applied to claim 1 above, and further in view of Holland US 6,321,091 (hereafter Holland).

As per **claim 8**, Hendrey teaches claim 1 **but is silent on** wherein the determining the location of the second device comprises:

Receiving information from a network, where the information in the network contains the location of the second device transmitted from the second device; and

Identifying the location of the second user form the received information.

Holland teaches a portable locator system (title, abstract) whereby the portable device can determine its location and transmit location data to the network and/or subscriber computer externally attached to network (figure 1 shows device #12 and cellular provider network #28 and subscriber computer #48). The location data from the portable device will allow another to identify the location of the second user based the received information.

As per **claim 9**, Hendrey teaches claim 8 where in the network comprises at least one of an Internet and a wireless network (C4, L5-21 teaches wired/wireless networks such as the Internet and cellular (eg. discusses SMS messaging) while C4, L32-38 teaches mobile units such as cell phones).

As per **claim 11**, Hendrey teaches claim 8 wherein the determining whether the first and second devices are in the same region is performed by the network (figure 1 and C5, L19-35 teaches telecommunication-aware network that determines location of mobiles).

Claims 14-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey as applied to claim 1 above, and further in view of Dunko et al. US 6,553,236 (hereafter Dunko).

As per **claim 14**, Hendrey teaches claim 1 further comprising:

Determining, if the location of the second device is outside the area containing the first device, whether the second device is about to approach the same area containing the first device; and

Notifiying the first user of the impending presence of the second user in the same area if the second device is about to approach the same area containing the first device.

Dunko teaches on-demand location determination for affinity groups that want to know the location of other members (title and abstract) whereby situational alarms (eg. notifications) that users may program (figure 5) are based on the reported locations of the mobile terminals used by members of the affinity group - Initially, users must form an affinity group and subsequently program a situational alarm (the variations on this are limitless) - Some individuals may wish to know when two particular members of the affinity group are at the mall. Others may want to know when any two members of the affinity group are within a city block of one another. Others may want to know when any affinity group member is approaching the present location of the member (C11, L5-19).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Hendrey, such that a user is notified if another user is approaching the same area, to provide apriori notification means to a member when another is NOT within the predetermined area but is approaching the area.

As per **claim 15**, Hendrey in view of Dunko teaches claim 14 **but is silent on** wherein the determining the location of the second device comprises:

Determining a rate of travel and a direction of travel of the second device of the second user.

Dunko teaches location determination that can also provide information indicating travel direction and velocity (C8, L3-12).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Hendrey, such that rate of travel and direction of travel

are computed, to provide means for the system to determine location based on a plurality of information, including GPS, TDOA, AOA and rate/direction of travel.

Claims 10 and 17-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey as applied to claim 1, 17 and 24 above, and further in view of Grube et al. US 5,689,809 and Holland US 6,321,091 (hereafter Grube and Holland).

As per **claim 10**, Hendrey teaches claim 8 **but is silent on** wherein the determining whether the first and second devices are in the same region is performed by the first device.

Grube teaches a wireless device that can receive location information about a different device and, using its own location information, determine a geographic relationship between the two devices (abstract and figure 2 and C2, L13-61). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combination of Hendrey and Holland, such that the portable device can receive location information and perform distance calculations, to provide means for the phone to receive and calculate position information without support from the network.

As per **claim 17**, Hendrey teaches a portable communication device (figure 1, #101a-101c and 101d) and a network interface for receiving information from the network (figure 1, #110 shows RF/cellular interface to BTS's #103 and telelcomm infrastructure #104) and a processor that executes a group alert program configured to determine whether the location of another portable device is within a same region as the retrieved location and if so, cause a notification message to be sent to the user of a presence of the another user if the location of the another device iw within the same region as the portable device (abstract teaches selectively connecting/notifying proximately located units, C2, L39-47, figure 4, #401-403 and figure 7, #701-#707 which initiates a call between caller and potential callee, also see figure 12, #323-#327 and abstract and C2, L39-47 teach connecting between two units when within a predetermined distance from each other – hence both first and second units are notified since the connection is set-up) **but is silent on**

The portable notifying a user of the presence of another user comprising:

A position detector for determining a location of a portable device;

A memory for storing a user alert program

wherein the network information includes location information indicative of a location of another portable device of another user.

The examiner notes that Hendrey is silent on the "portable device" having the location determination function since he discloses computers external to the portable device which perform this function (see figure 1, #105-108).

Holland teaches a portable location device (figure 1, #12) which has a CPU, memory and cellular transceiver/modem to allow the device to determine its position (abstract, figures 1-3 and C2, L20-27). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Hendrey, such that portable device has a CPU, memory and RF transceiver, to provide means for the device to carry out position determination as a stand-alone unit without need of communicating with the network.

Grube teaches a wireless device that can receive location information about a first device and, using its own location information, determine a geographic relationship between the two devices (abstract and figure 2 and C2, L13-61). Hence, this provides motivation to move the location/notification functionality from the network in Hendrey to the mobile device per Grube. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combination of Hendrey and Holland, such that the portable device can receive location information and perform distance calculations, to provide means for the phone to receive and calculate position information without support from the network.

As per **claim 18**, Hendrey in view of Holland and Grube teaches claim 17 wherein the position detector comprises a GPS device (C1, L48-51 teaches GPS, hence the phone inherently must contain a GPS transceiver in order for GPS to be supported).

As per **claim 19**, Hendrey in view of Holland and Grube teaches claim 17 **but is silent on** comprising:

An input device for providing commands to the processor; and

An output device for displaying the retrieved location.

Holland teaches a control interface (figure 1, #21) that accepts input commands from a user (C6, L28-33). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Hendrey, such that the device has input for user commands, to provide means for the user to control the unit as they require.

Grube teaches determination of geographic relationships between portable units (title) whereby the relationship/distance is displayed visually and audibly (abstract, also see displays in figure 1, #115 and #116). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Hendrey, such that the device has an output to display location data, to provide means for the user to view position data visually.

As per **claim 20**, Hendrey in view of Holland and Grube teaches claim 17 wherein the first user and the second users are members of a group (figure 1 shows an acquaintance server #106 and a matchmaker service and database server #107 which the users are a member of and figure 2 shows a group list with user phone numbers and distances to other users shown, #220, #221-222. Also see figure 6 which shows the matchmaker server/database, #107 and C5, L63 to C6, L5).

As per **claim 21**, Hendrey in view of Holland and Grube teaches claim 21 wherein the network comprises at least one of an Internet and wireless network (C4, L5-21 teaches wired/wireless networks such as the Internet and cellular (eg. discusses SMS messaging) while C4, L32-38 teaches mobile units such as cell phones).

As per **claim 22**, Hendrey in view of Holland and Grube teaches claim 17 **but is silent on** wherein the retrieved location is transmitted to the network for processing by the another portable device.

Grube teaches a wireless device that can receive location information about a first device and, using its own location information, determine a geographic relationship between the two devices (abstract and figure 2 and C2, L13-61). Hence, this provides motivation to move the location/notification functionality from the network in Hendrey to the mobile device per Grube. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combination of Hendrey and

Holland, such that the portable device can receive location information and perform distance calculations, to provide means for the phone to receive and calculate position information without support from the network.

As per **claim 23**, Hendrey in view of Holland and Grube teaches claim 17 wherein the another portable device is in the same region as the retrieved location if the another portable device is less than a threshold distance from the retrieved location (C5, L19-34 and C6, L20-26).

As per **claim 24**, Hendrey teaches a system (figure 1) for connecting (eg. notifying, C4, L5-23) a user of a portable communication device (title and abstract) comprising:

Determining a location of a first portable communication device of a first user (C5, L19-28);

Determining a location of a second portable communication device of a second user (C5, L19-28);

A network configured for:

Determining whether the location of the second device is within a same region containing the first device (abstract teaches selectively connecting/notifying proximately located units, C2, L39-47, figure 4, #401-403 and figure 7, #701-#707 which initiates a call between caller and potential callee, also see figure 12, #323-#327); and

Transmitting (eg. Connecting/Notifying) a notification to the first and second portable devices, if the second portable device is within the same region as the first portable device (abstract and C2, L39-47 teach connecting between two units when within a predetermined distance from each other – hence both first and second units are notified since the connection is set-up)

But is silent on first and second devices determining their location and the network receiving the transmitted location of second portable device.

The examiner notes that Heydrey teaches a "data transfer" between first/second units that can include voice, data, email, voicemail, SMS, prerecorded messages, etc. (C4, L5-23) which reads on a notification and/or connection (as stated above) AND that Hendrey is silent on the "portable device" having the location determination function

since he discloses computers external to the portable device which perform this function (see figure 1, #105-108).

Holland teaches a portable location device (figure 1, #12) which has a CPU, memory and cellular transceiver/modem to allow the device to determine its position (abstract, figures 1-3 and C2, L20-27) which can be sent to the network (figure 1 shows location data transmitted to cell provider, #26, server computer #38 and subscriber computer #46). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Hendrey, such that portable devices can determine their position and send it to the network, to provide means for the device to carry out position determination as a stand-alone unit without need of communicating with the network.

Grube teaches a wireless device that can receive location information about a first device and, using its own location information, determine a geographic relationship between the two devices (abstract and figure 2 and C2, L13-61). Hence, this provides motivation to move the location/notification functionality from the network in Hendrey to the mobile device per Grube. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combination of Hendrey and Holland, such that the portable device can receive location information and perform distance calculations, to provide means for the phone to receive and calculate position information.

As per **claim 25** , Hendrey in view of Holland and Grube teaches claim 24 wherein at least one of the first and second devices comprise a wireless phone (figure 1 has mobile phones and C4, L32-38).

As per **claim 26**, Hendrey in view of Holland and Grube teaches claim 24 wherien the network is configured for wireless communication (figure 1 shows mobile phones and base stations, #101a-c and #103).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

1. Amro et al. US 6,292,747.
2. Drutman et al. US 6,618,593.
3. Grimes US 5,479,482

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMD